

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

508J0132

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1273 - 02/07/2004

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Rave, Bartling, Burg, Cradduck, Glenski, Hunhoff, Klaudt, Lintz, Michels, Miles, and Van Etten and Senators Knudson, Abdallah, and de Hueck

1 FOR AN ACT ENTITLED, An Act to allow emergency medical technicians to be included in
2 peer review committees.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 36-4B be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For the purposes of this Act, a peer review committee is one or more persons, including an
7 emergency medical technician at any level as described in this chapter, acting as an
8 administrative or medical committee of a licensed health care facility or a licensed ambulance
9 service, that engages in peer review activity. There is no monetary liability on the part of, and
10 no cause of action for damages may arise against, any member of a peer review committee or
11 against any consultant to that committee engaging in peer review activity as provided in this
12 Act, if the committee member or consultant acts without malice, has made a reasonable effort
13 to obtain the facts of the matter under consideration, and acts in a reasonable belief that the
14 action taken is warranted by those facts. The provisions of this section do not affect the official



immunity of an officer or employee of a public corporation.

Section 2. That chapter 36-4B be amended by adding thereto a NEW SECTION to read as follows:

The proceedings, records, reports, statements, minutes, or any other data whatsoever of any committee described in section 1 of this Act relating to peer review activities defined in section 4 of this Act, are not subject to discovery or disclosure under chapter 15-6 or any other provision of law, and are not admissible as evidence in any action of any kind in any court or arbitration forum, except as provided in this section. No person in attendance at any meeting described in section 1 of this Act is required to testify as to what transpired at such meeting. The prohibition relating to discovery of evidence does not apply to deny an emergency medical technician at any level access to, or use of, information upon which a decision regarding the person's staff privileges or employment are based. The prohibition relating to discovery of evidence does not apply to deny any person or the person's counsel in defense of an action against that person access to the materials covered under this section.

Section 3. That chapter 36-4B be amended by adding thereto a NEW SECTION to read as follows:

The provisions of section 2 of this Act do not apply to any observation made at the time of treatment by a health care professional present during a patient's treatment or to patient records prepared during the treatment and care rendered to a patient who is personally or by personal representative a party to an action or proceeding, the subject matter of which is the care and treatment of the patient. Furthermore, no member of any committee covered by section 1 of this Act who has participated in deliberations under that section involving the subject matter of the action, may testify as an expert witness for any party in any action for personal injury or wrongful death, the subject matter of which is the care and treatment of the patient.

1 Notwithstanding membership on any committee covered by section 1 of this Act, a health care
2 professional observing or participating in the patient's treatment and care may testify as a fact
3 or expert witness concerning that treatment and care, but may not be required to testify as to
4 anything protected by section 1 of this Act.

5 Section 4. That chapter 36-4B be amended by adding thereto a NEW SECTION to read as
6 follows:

7 For the purposes of this Act, peer review activity is the procedure by which a peer review
8 committee monitors, evaluates, and recommends actions to improve the delivery and quality of
9 services within its respective facility, agency, and profession, including any recommendation,
10 consideration of recommendations, action with regard to recommendations, and implementation
11 of actions. Peer review activity and acts or proceedings undertaken or performed within the
12 scope of the functions of a peer review committee include:

- 13 (1) Matters affecting employment and terms of employment of an emergency medical
14 technician at any level by a health care facility or a licensed ambulance service;
- 15 (2) Matters affecting the membership and terms of membership in a health professional
16 association composed of emergency medical technicians at any level, including
17 decisions to suspend membership privileges, expel from membership, reprimand, or
18 censure a member, or other disciplinary actions;
- 19 (3) Review and evaluation of qualifications, competency, character, experience,
20 activities, conduct, or performance of an emergency medical technician at any level
21 by a licensed health care facility or a licensed ambulance service; and
- 22 (4) Review of the quality, type, or necessity of services provided by any emergency
23 medical technician at any level employed by a licensed health care facility or a
24 licensed ambulance service.